IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4780 OF 2005

Shri. Rama Sakharam Lamdade ...Applicant
Vs.
The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO.4779 OF 2005

Shri. Raghunath Ramchandra Inamdar ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. Ranjit V. More for the Applicant in both the Applications.
Shri. U.V.Nikam, A.P.P. for the Respondent in Criminal Application No.4780 of 2005.
Shri. K.V.Saste, A.P.P. for the Respondent in Criminal Application No.4779 of 2005.

CORAM : A. S. OKA, J.
DATE : AUGUST 22, 2005.

P.C.:

1. The Applicants are co-accused in an offence registered under sections 408, 409, 420, 465 and 34 of the Indian Penal Code. The Applicant in Criminal Application No.4780 of 2005 is a cashier employed by the Credit Society concerned and the Applicant in Criminal Application No.4779 of 2005 is the Manager employed by the Credit Society. The F.I.R. has been filed by the Special Auditor of Co-operative Societies appointed by the State Government.

2. F.I.R. in the case of the Criminal Application No.4779 of 2005 and the Criminal Application No.4780 of 2005 is the same. The F.I.R. is based on the audit conducted by the first informant

of the said Credit Society for the period between 19th April, 1999 to 23rd November, 2000. The main allegation in the F.I.R. appears to be that a sum of Rs.7,00,000/- was advanced by the Credit Society in the name of 'Hanuman Nagri Seva Charitable Trust' and it is alleged that no documents are available pertaining to the said Trust. The second allegation is regarding donation allegedly paid to a remand home in the sum of Rs.5,00,000/-. The third allegation is regarding payments made to various persons for recovery of the amounts advanced by the Credit Society to its members and the last allegation is regarding amount spent on acquiring a vehicle.

3. The learned Advocate for the Applicant in both the Applications submitted that the Applicants are in custody from 13th June, 2005. He pointed out that in case of the audit for earlier period similar offence has been registered against the Applicants and all the directors of the Credit Society. In the said offence Applicants have been enlarged on bail. He submitted that as the managing commitee of the Credit Society was superseded and a Government Officer was appointed as adminsitrator, the entire record was in possession of the Government Adminsitrator. He submitted that since the Applicants are in custody for last more than two months, they are entitled to be enlarged on bail.

4. The learned A.P.P. pointed out that the chairman of the Credit Society was absconding and now he has been arrested. He submitted that the Applicants being manager and cashier have played important role.

5. I have considered the submissions. It is not in dispute that from 14th December, 2000 to 01st September, 2001, the Credit Society was administered by the administrator appointed under Maharashtra Co-operative Societies Act, 1960. The learned Sessions Judge while rejecting the Applications made by the Applicants has noted that the present Applicants being employees of Credit Society were not sanctioning authorities. The learned Judge has also noted that as regards allegation of making donation of Rs.5,00,000/- to a remand home that the remand home has given a letter stating that the Credit Society has spent for construction of second floor of building owned by the remand home. The learned Judge noted that the amount for purchase of vehicle is not utilised for said object. The learned Judge noted that in so far as payment of sum of Rs.02,87,058/- allegedly paid to the recovery agent is concerned, the persons concerned are not traceable.

6. In so far as the Applicant in the Criminal Application No.4780 of 2005 is concerned, general

allegations are made against him alongwith the directors of the Credit Society. There is no specific allegation made against the said Applicant ascribing him a particular role. The Applicant in the said Application is in custody for last more than two months. As stated earlier, the record must have been taken in custody by the administrator appointed by the State.

7. So far as the Applicant in Criminal Application No.4779 of 2005 is concerned, the real allegation seems to be that he has admitted that the persons who were shown as recovery agents and who had paid commission are fictitious persons. As far as other transactions are concerned, especially, the transaction relating to donation to remand home, the F.I.R. itself records that according to the Complainant, the amount has been taken by the Chairman of the Credit Society. The said Applicant is in custody for last more than two and half months. It cannot be said that record of Credit Society pertaining to the transactions is with the Applicants. For a period of more than two months, no recovery has been made at the instance of the said Applicant. The said Applicant has already tendered his resignation as manager of the Credit Society.

8. The Applicants were arrested in connection

with another offence which was registered on the basis of audit report of the Credit Society for the earlier period. Though compulsory bail under section 167 of the Code of Criminal Procedure, 1973 was granted in their favour in the said offence, the fact remains that they were enlarged on bail. Considering the fact that for last more than two and half months the Applicants are in custody, and there is no recovery of any material at their instance, a case is made out for enlarging the Applicants on bail.

9. Hence, I pass the following order:

: O R D E R :

i) The Applicant in Criminal Application No.4779 of 2005 shall be enlarged on bail in connection with **C.R.No.260 of 2004 of Sangli Police Station,** subject to furnishing a personal bond of **Rs.25,000/-** with one or two local sureties in the like amount.

ii) The Applicant in Criminal Application No.4780 of 2005 shall be enlarged on bail in connection with **C.R.No.260 of 2004 of Sangli Police Station,** subject to furnishing personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

iii) The Bail is granted subject to condition that

the Applicants in both the Criminal Applications will attend the concerned police stations as and when called upon to do so.

iv) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE